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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/937,172	12/05/2001	Odd Geir Oddsen	H82.2-10148	4983

490 7590 02/03/2004

VIDAS, ARRETT & STEINKRAUS, P.A.  
6109 BLUE CIRCLE DRIVE  
SUITE 2000  
MINNETONKA, MN 55343-9185

EXAMINER

BHAT, NINA NMN

ART UNIT	PAPER NUMBER
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1761

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DATE MAILED: 02/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

AS

# Office Action Summary

Application No.

09/937,172

Applicant(s)

ODDSEN ET AL.

Examiner

N. Bhat

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 01 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 September 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 8, 10, 11, 12. 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. The disclosure is objected to because of the following informalities:

On Page 1, line 1, applicant should recited "This application is a 371 of PCT/NO00/00093, filed March 17, 2000. Appropriate correction is required.

2. Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1 and 5, applicant has used "e.g." which renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d). In claims 2-8, applicant has used "characterized in that" language which renders claims indefinite because the characteristics of the method does not distinctly point what the steps of the method comprises. Applicant can obviate the rejection by deleting "characterized in that" language and changing it to --wherein--. In claim 5 applicant has used "preferably" language in reciting where the pellet chamber is located. Applicant should avoid the use of linking terms such as "preferably, for example, such as" when drafting claims and draft the claims using clear, positive, meaningful language, which include the elements of the apparatus and their cooperative relationship to each other. In claims 5-8 and 14-19 applicant uses "The plant" which is not conventional language when drafting an apparatus claim. Applicant is suggested to draft the claim as "A system" or more preferably "An apparatus for manufacturing feed pellets....".

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 1-22 are rejected under 35 U.S.C. 102(b) as being anticipated by GB 2 232 573.

GB 2 232 573 teaches an animal feed pellet, which is formed by extrusion. The feed pellets are formed by conventional extrusion process, and then the extruded pellet is then treated with an edible oil under reduced pressure such as oil. The pellets are dried in a vacuum oven and then soaked in oil.[Note Page 2, lines 13-30, Page 3, lines 19-36, Page 6, lines 5-21]. GB 2 232 573 specifically teaches a method and apparatus, which palletizes a feed into pellets, chamber downstream from and extruder wherein the pellets are dried or exposed to a lower pressure than ambient, and then contacted with oil. GB 2 232 573 specifically teaches that by exposing the pellets to a reduced pressure that air is withdrawn from the pores of the pellet thus permitting greater penetrations of lipids or oils. The vacuum oven temperature is 60°C and the pressure

was set at 30 inches or 0 kPa. In Example 3, applicant teaches varying the vacuum pressure and subjecting the feed pellet to oil treatment. The apparatus and method as taught by GB 2 232 573 fully anticipates applicant's claims.

5. Claims 1,5, 9 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by WO 98/499904.

WO 98/499904 teaches a method and apparatus for extruding a mixture of basic fish feed ingredients, which is then extruded under ambient conditions. WO 98/499904 teaches that prior to extrusion a pre-conditioning steps can be done and then the mixture or matrix is extruded to form porous pellets. The extruders are generally single screw or twin-screw type extruders. Note Page 5, 2<sup>nd</sup> whole paragraph. The extruded pellet is then loaded into a chamber where vacuum coating takes places. Between the vacuum coating steps, the atmosphere may be returned to atmospheric pressure before applying a second or subsequent coating. The increase in pressure forces the oil into the interior of the porous feed pellet. [Note Page 7, 2<sup>nd</sup> paragraph].

6. Claims 1,5,9 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Likuski et al.

Likuski et al. teach a method and apparatus for making a fish feed or animal feed in pellet form. Likuski et al. teach making a dough or mix of feed ingredients, which is, can be preconditioned with steam and then extruded into pellets. Likuski et al. teaches that the degree of expansion on issuing from the extruder die or the density of product can be adjusted by adjusting the amount of cooking, which takes place in the extruder. The oil can be added after extrusion by coating in oil and then placing the oil coated

pellets in a vacuum oven, which will increase the amount of oil in the pellet and thus the sink rate of the pellets.[Note Column 5-Column 6]

7. Claims 1,5, 9 and 14 rejected under 35 U.S.C. 102(e) as being anticipated by Nishioka et al.

Nishioka et al. teach a method of adding oil and fat to porous feed by providing a feed pellet made by extrusion which is then fed into a partially evacuated chamber of an oil and fat adding apparatus and withdrawing the coated or impregnated fat and oil enriched pellets from the oil and fat adding apparatus thus providing a high fat containing feed pellet.[Note the abstract, Figure 1, Column 3, line 35 et seq.]

8. Claims 1,5,9 and 14 are rejected under 35 U.S.C. 102(e) as being anticipated by Munz.

Munz teach a method and apparatus for incorporating fatty matter into a granulated extrudate such as pellets with a fat supplying liquid. Specifically, the extruded or expanded product is placed into a drier and the expanded product or pellet is dried and cooled. Then the pellets or expanded products are subjected to a mixer where a preset quantity of dried product is mixed with a liquid fat, a vacuum pump is used during the mixing process where the a negative pressure is created in the mixture as a result the pores or the capillaries of the pellets or expanded product releases air and replaced by the oil or fat containing liquid on the surface.[Note the abstract and Column 3, lines 40-67 and column 4, lines 14-43]

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Johnsen et al. teach a method of producing fee pellets by

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immersing the feed pellets in a first oil bath and then cooking in a warm oil bath. WO 95/07028 [USP 5, 770,253] teaches a fodder composition and method for producing fodder-containing lipids of low melting temperatures for aquatic organisms. WO 99/51107 teaches a method for producing feed by forming into pellets and then adding an enzyme transglutaminase to the feed. WO 02/24000 teaches a method and apparatus for manufacturing feed pellets which high fat content which involves subjecting feed pellets to from an extruder to a an oil filled pellet chamber having a negative pressure.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to N. Bhat whose telephone number is 571-272-1397. The examiner can normally be reached on Monday-Friday, 9:30AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-0987.



N. Bhat  
Primary Examiner  
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